

Chesapeake Bay Exception CBE-12-050: 218 The Maine - Kane

Staff report for the December 14, 2011 Chesapeake Bay Board Public Hearing

This staff report is prepared by James City County Engineering and Resource Protection to provide information to the Chesapeake Bay Board to assist them in making a recommendation on this assessment. It may be useful to members of the general public interested in this assessment.

Existing Site Data & Information

Applicant:	John and Kathleen Kane
Land Owner:	John and Kathleen Kane
Location:	218 The Maine
Parcel:	Lot 82, First Colony Subdivision
Parcel Identification:	4540200082
Lot Size:	0.59 acres
RPA Area on Lot:	0.51 acres or 86% of the lot (RPA only)
Watershed:	James River (HUC Code JL30)
Proposed Activity:	Retaining wall and paver walkways

Proposed Impacts

Impervious Area:	442 square feet (approximate)
RPA Encroachment:	442 square feet to the landward 50 foot RPA Buffer

Brief Summary and Description of Activities

John and Kathleen Kane have applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for an encroachment into the RPA buffer for the construction of a retaining wall and two stone paver walkways at 218 The Maine within the First Colony Subdivision. The lot was platted prior to the 1990 adoption of the Chesapeake Bay Preservation Ordinance. The proposed improvements are within the landward 50 foot RPA buffer. In addition to the improvements detailed in this staff report the applicant is proposing to construct an attached deck, tree removal, and the installation of ground gutters which will be handled administratively

The proposed improvements will be located within the landward 50' RPA buffer in areas directly adjacent to the existing residence. The proposed segmental block retaining wall will be constructed at the northeast end of the residence with an associated paver walkway installed along the wall to replace an existing dirt path. The second stone paver path is proposed to be located at the southwest side of the home to provide access from the carport to the rear deck replacing an existing dirt path.

Staff Recommendations

The issue before the Board is the installation of the retaining wall and stone paver walkways with 442 square feet of impervious area within the landward RPA buffer. The Board is to determine whether or not this is consistent with the spirit and intent of the Ordinance and make a finding based upon the criteria outlined in Section 23-14 (c) of the Ordinance. There are five review criteria within this section of the ordinance.

Staff recommends approval of the application with the incorporation of the following conditions into the approval:

1. The applicant must obtain all other necessary local permits as required for the project.
2. All proposed mitigation plantings shall meet James City County standards of 1" caliper for the canopy and understory trees and proposed shrubs shall be minimum three gallon size.
3. Full implementation of the approved RPA Mitigation Plan and any additional Board mitigation requirements shall be guaranteed through a form of surety satisfactory to the County Attorney and the provisions of the Ordinance contained in Sections 23-10(3) (d) and 23-17(c).
4. This exception request approval shall become null and void if construction has not begun by December 14, 2012.
5. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 2 weeks prior to the expiration date.

Background

Based on staff review of County records, the lot was recorded prior to the adoption of the Chesapeake Bay Preservation Ordinance. As the proposed accessory structures are located within the RPA buffer, they cannot be administratively reviewed and therefore in accordance with section 23-14 of the Ordinance, an exception request must be considered by the Chesapeake Bay Board following public hearing under the formal exception process. The exception request before the board, and decision to approve or deny by resolution, is for encroachment into the RPA buffer for the construction of the retaining wall and the stone paver walkways.

Water Quality Impact Assessment (WQIA)

Under Sections 23-11 and 23-14 of the County's Chesapeake Bay Preservation ordinance, a water quality impact assessment (WQIA) must be submitted for any proposed land disturbing activity resulting from development or redevelopment within RPAs.

The applicant has submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. The applicant has submitted a County *Sensitive Area Activity Application* and a detailed mitigation plan, both of which are included in the case report packet.

The applicant proposes to provide one (1) canopy, four (4) understory, and seven (7) shrubs to offset the impacts to the RPA. The proposed mitigation exceeds the mitigation standard requirements for the proposed impacts.

Consideration by the Chesapeake Bay Board

The exception granting body is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance. The Chesapeake Bay Board is to fully consider Chesapeake Bay Exception CBE-12-050 as outlined and presented above and review the request for exception and the water quality impact assessment. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chapter 23 Chesapeake Bay Preservation Ordinance. Resolutions for granting approval or granting denial of Chesapeake Bay Exception CBE-12-050 are included for the Board's use and decision.

Staff Report prepared by:

Michael P. Majdeski
Senior Resource Protection Inspector

CONCUR:

Scott J. Thomas
Secretary to the Board

Attachments: Sensitive Area Activity Application
Mitigation Plan